

—  
IN THE COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR  
CRIMINAL WRIT PETITION NO. 410/2018

(Bhupesh Vittha; Tichkule **VS.** The Deputy Inspector General (Prisons) and another )

Office Notes, Office Memoranda of  
 Coram, appearances, Court's orders  
 of directions and Registrar's orders

Court's or Judge's order

Mr. Mir Nagman Ali, Advocate for the petitioner  
 Mr. K.L. Dharmadhikari, Additional Public Prosecutor for respondents

**CORAM : SMT. VASANTI A. NAIK &**  
**MRS. SWAPNA JOSHI, JJ.**

**DATED : 26<sup>th</sup> April, 2018.**

Heard.

By this Writ Petition, the petitioner challenges the order of Deputy Inspector General of Prisons, Nagpur, dated 16.4.2018, rejecting the application of the petitioner for grant of furlough leave.

The furlough leave application of the petitioner was rejected by recording two reasons. Firstly, according to the D.I.G. (Prisons), the appeal filed by the petitioner against the judgment of his conviction is pending and hence the petitioner would not be entitled to furlough leave, in view of Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959. Secondly, according to the D.I.G. (Prisons), the relatives of the victim have objected to the release of the petitioner by expressing an apprehension that the petitioner would be involved in similar crime.

The petitioner would be entitled for his release on furlough leave. Rule 4 (11) of the Rules has been deleted by the Government notification dated 16<sup>th</sup> April, 2018 and hence a prisoner cannot be prevented from availing furlough leave only because he has filed an appeal against the judgment of his conviction and sentence. We also do not find any cogent reason for rejecting the application of the petitioner, in view of the apprehension expressed by the relatives of the victim that the petitioner would be involved in similar crime. The relatives of the victim are bound to object for the release of the accused/prisoner if their opinion is sought. Such an apprehension should have some basis.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The impugned order is quashed and set aside. The respondents are directed to release the petitioner on furlough leave within seven days from the date on which the relative of the petitioner furnishes, as required by Rule 6 of the Rules of 1959. Order accordingly.

**JUDGE**

**JUDGE**